

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) KRISTA RAMIREZ,

Plaintiff,

v.

Case No.: 20-cv-845-G

(1) STATE OF OKLAHOMA *ex rel.*,
BOARD OF REGENTS FOR THE
REGIONAL UNIVERSITY SYSTEM
OF OKLAHOMA, and
(2) SOUTHEASTERN OKLAHOMA
STATE UNIVERSITY,

Defendants.

DEFENDANTS' ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT

Defendants, State of Oklahoma, *ex rel.*, Board of Regents for the Regional University System of Oklahoma ("RUSO"), and Southeastern Oklahoma State University ("SEOSU"), ("Defendants"), for their Answer to Plaintiff's First Amended Complaint, state the following:

1. Defendants admit the allegations contained in Paragraphs 1, 2 and 3 of Plaintiff's First Amended Complaint.

2. In response to Paragraph 4, Defendants deny they violated any of Plaintiff's rights. Defendants deny that Plaintiff has any viable claims, but admit that following the Court's Order on Defendant's Motion to Dismiss [Doc. 16], Plaintiff's only remaining claims include retaliation claims under the (1) OADA, (2) FMLA (relating to Plaintiff's husband's medical condition), and (3) Rehabilitation Act.

3. Defendants admit that their only interactions with Plaintiff were within the State of Oklahoma, and admit that they may be served in Oklahoma County, as alleged in Paragraph 5. Defendants deny any unlawful conduct.

4. Defendants admit that under certain circumstances, portions of the cited statutes listed in Paragraph 6 of Plaintiff's First Amended Complaint apply to Defendants.

5. Defendants admit Plaintiff was employed for at least 1250 hours during the requisite twelve month period. Defendants deny the remaining allegations in Paragraph 7.

6. In response to Paragraph 8, Defendants admit the first sentence, but deny the remaining allegations.

7. In response to Paragraph 9, Defendants are without sufficient knowledge or information to admit or deny the allegations regarding Plaintiff's specific medical diagnoses and/or medical problems, and therefore deny the same. Defendants deny Plaintiff experiences significant impairments to major life activities and major bodily functions.

8. In response to Paragraph 10, Defendants admit Plaintiff advised SEOSU that Plaintiff and Plaintiff's husband had certain health conditions that necessitated Plaintiff taking FMLA leave. Defendants are without sufficient knowledge or information regarding Plaintiff's specific medical conditions to admit the remaining allegations, and therefore deny the same.

9. In response to Paragraph 11, Defendants admit Plaintiff was permitted to take FMLA leave at least four (4) separate times, including in September 2018 and June 2019 for qualifying medical conditions. Defendants deny Plaintiff was disciplined for taking medical leave. Defendants admit that after Plaintiff was placed on a plan of improvement due to multiple and significant performance deficiencies, and subsequently received a counseling report about ongoing performance and behavioral deficiencies, Plaintiff submitted a grievance complaining of discrimination and retaliation.

10. In response to Paragraph 12, Defendants admit Plaintiff was approved for, and took approximately five weeks of FMLA leave. Defendants deny the remaining allegations in Paragraph 12.

11. Defendants deny the allegations contained in Paragraphs 13 and 14 of Plaintiff's First Amended Complaint.

12. Defendants admit the allegations in Paragraph 15.

13. Defendants deny the allegations contained in Paragraphs 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 Plaintiff's First Amended Complaint.

AFFIRMATIVE DEFENSES

1. Plaintiff has failed to state a claim upon which relief can be granted.

2. Plaintiff failed to timely and/or properly exhaust administrative remedies.

3. Defendants acted in good faith and dealt fairly with Plaintiff at all times material to Plaintiff's Complaint.

4. At all times relevant to this lawsuit, Plaintiff was never subjected to any type of discrimination, retaliation, or other type of unlawful employment action.

5. Plaintiff failed to mitigate damages.

6. Plaintiff had no expectation of continued employment.

7. Punitive damages are not recoverable against Defendants.

8. Defendants are entitled to recover reasonable attorney fees.

9. Defendants reserve and do not waive any defenses available under all federal and state laws.

10. Defendants reserve the right to amend and supplement these defenses as discovery proceeds.

11. Defendants' actions towards Plaintiff were based on legitimate, nondiscriminatory reasons.

12. Defendants' actions towards Plaintiff were based on bona fide business reasons.

WHEREFORE, Defendants respectfully request Plaintiff be denied any requested relief, and for such other and further relief as the Court deems proper under the circumstances.

Respectfully submitted,

/s/ Dixie L. Coffey

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Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of January 2021, a true and correct copy of the foregoing document was served via the Court's ECF system to all registered counsel for the litigants herein.

/s/Dixie L. Coffey

Dixie L. Coffey